

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA, }

v. }

PEACHES STERGO, }

Defendant. }

Case No. 1:23-cr-020

**DEFENDANT'S SENTENCING MEMORANDUM AND
REQUEST FOR DOWNWARD VARIANCE**

The Defendant, Peaches Stergo, pleaded guilty to one-count of wire fraud, in violation of 18 U.S.C. § 1343, on April 14, 2023. She will appear before this Court for sentencing on July 27, 2023. Based on a total offense level of 24 and a criminal history category of I (with 0 criminal history points), her advisory guideline range is 51 to 63 months. [Doc. 35 (“PSI”), ¶¶ 52, 55, 88]. For the reasons that follow, Ms. Stergo respectfully submits that this guideline range is greater than necessary to achieve the goals of 18 U.S.C. § 3553(a), and that a downward variance of 41 months followed by supervised release is warranted by her personal characteristics, the circumstances of her offense, and the need to avoid unwarranted sentencing disparities among similarly situated persons.

I. Application of the 18 U.S.C. § 3553(a) Factors

a. Ms. Stergo's personal characteristics and the nature and circumstances of the offense.

Before this Honorable Court stands Peaches Stergo, who is a 36-year-old partner to her long-time boyfriend and a mother to two teenaged boys who she describes as "her life." [PSI, ¶¶ 64, 65]. Her boyfriend, who she met when she was 16, describes her as a very caring person, a great mother, and a born-again Christian. [PSI, ¶ 68].

Ms. Stergo's life began with a childhood of significant instability and trauma. Her parents were never married, and her mother left when she was around four years old due to domestic violence that took place in the home. [PSI, ¶ 60, 62]. Her mother attempted to kidnap her a number of times when she was a child, and once even tried putting her in a suitcase to take her away from her father. [PSI, ¶ 62]. She does not maintain a relationship with her mother and was raised primarily by her father and grandfather. [PSI, ¶¶ 60, 62]. Money was always an issue – her father tried to do anything to make money, but bills went unpaid, resulting in the electricity being shut off, cars breaking down, and landlords coming to the door for rent. [PSI, ¶ 62]. They moved from state to state, and her father failed to ensure she received a primary and secondary education. [PSI, ¶¶ 63, 78]. She was a runaway at 16. [PSI, ¶ 62].

It is widely accepted that the effects of adverse childhood experiences can be far-reaching, and can include lasting, negative effects on health, wellbeing, and life opportunities.¹ Children growing up with toxic stress can have difficulty forming healthy and stable relationships, and may also have unstable work histories as adults and struggle with finances, jobs, and depression throughout life.² And childhood neglect (“failure to meet a child’s basic physical and emotional needs,” including housing, food, clothing, education, and access to medical care)³ has been shown to lead to cognitive and emotional impairments that are as bad or even worse than those associated with physical abuse.⁴

For Ms. Stergo, the residual effect of her childhood trauma has manifested in compulsive behaviors in her adult years. In her late teens, she was heavy drinker.⁵ [PSI, ¶ 76]. In her 20s, she had a problem gambling with her rent money or money

¹ See, e.g., *Fast Facts: Preventing Adverse Childhood Experiences*, Centers for Disease Control, <https://www.cdc.gov/violenceprevention/aces/fastfact.html> (last visited July 11, 2023).

² *Id.*

³ *Fast Facts: Preventing Child Abuse & Neglect*, Centers for Disease Control, <https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html> (last visited July 11, 2023).

⁴ Claire Chiamulera, *Understanding Neglect’s Toll on Child Development*, American Bar Association, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_32/march_2013/understanding_neglectstollonchilddevelopment/ (March 1, 2013).

⁵ See Joseph Nowinski, Ph.D., *Childhood Trauma and Alcohol Abuse: The Connection*, Psychology Today, <https://www.psychologytoday.com/us/blog/the-almost-effect/201307/childhood-trauma-and-alcohol-abuse-the-connection> (July 29, 2013).

to pay bills.⁶ [PSI, ¶ 75]. She was able to stop both behaviors by turning to support groups offered by her church. [PSI, ¶¶ 75, 76].

The U.S. Attorney described Ms. Stergo's conduct in this case as "sick – and sad"⁷ and, in a sense, this assessment is accurate. The offense conduct was, like her drinking and gambling, a manifestation of compulsive behavior relating back to Ms. Stergo's childhood that she found difficult to stop. She regularly attends church and works hard to stop living "sinfully" and doing things that would take her away from God. [PSI, ¶ 72]. And she grapples with her conscience: while she does not admit to being suicidal, she often asks herself, "why God won't just kill [me] now?" [PSI, ¶ 74].

So, while it can be said that Ms. Stergo's actions were motivated in part by greed, she is not the cold-hearted person the government and media have made her out to be. There was a genuine, caring relationship that Ms. Stergo had with the victim in this case – she spent holidays with him, she took care of him when he was ill and, as the victim's cousin described, she was "doting" on him. It was

⁶ Lisa Rapaport, *Adult gambling addiction tied to childhood trauma*, <https://www.reuters.com/article/us-health-addiction-gambling-trauma-idUSKCN1AX1YY> (August 27, 2017).

⁷ U.S. Attorney's Office, Southern District of New York Press Release: *Florida Woman Pleads Guilty to Defrauding Holocaust Survivor Of \$2.8 Million In Connection With Romance Scam*, <https://www.justice.gov/usao-sdny/pr/florida-woman-pleads-guilty-defrauding-holocaust-survivor-28-million-connection-romance> (April 14, 2023).

important to her to try to make things right by entering her plea as quickly as possible and agreeing to forfeit virtually all the items seized by the government in this case. She remains motivated to make the victim whole and to understand herself better so that this type of behavior does not happen again. Her partner is her biggest supporter helping her in a spiritual aspect to get through this. [PSI, ¶ 64].

b. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide punishment for the offense.

The seriousness of the offense is in no way diminished by a 41-month sentence of imprisonment. Ms. Stergo's total offense level of 24 puts her on par with offenders who have committed violent acts more egregious than her offense, pursuant to the Guidelines:

- Committed a robbery and used a dangerous weapon. § 2B3.1(b)(2)(d)
- Committed a robbery and the victim suffered a serious bodily injury. § 2B3.1(b)(3)(b)
- Committed a robbery and abducted a person to facilitate the commission of the offense or to facilitate escape. § 2B3.1(b)(4)
- Committed arson or damage to property by use of explosives and created a substantial risk of death or serious bodily injury to any person other than a participant in the offense. § 2K1.4(a)(1)

c. The need to afford adequate deterrence to criminal conduct, and to protect the public from further crimes.

Ms. Stergo has no prior criminal history and understands that she will go to prison for her actions in this case. She does not ask the Court to consider a non-prison sentence. She will be separated from her sons that mean the world to her, and she will miss milestones in their lives like high school graduation. Being separated from her family for 41 months on account of her own conduct is a deterrent to future criminal conduct. Further, considering the public humiliation Ms. Stergo has experienced in the media and in her community [PSI, ¶ 73], the impact of her crime has hit home and, once on her feet again, it is unlikely that she will risk losing it all again in the future.

d. The need to provide Ms. Stergo with medical care in the most effective manner.

In 2011, Ms. Stergo underwent surgery for the removal of a brain tumor. [PSI, ¶ 71]. According to medical records provide to the Probation Officer, she has a persistent left posterior clinoid legion (brain tumor) that is being monitored yearly by MRIs. [Attached hereto as Ex. 1]. This ongoing medical care is unlikely to take place while Ms. Stergo is incarcerated.

e. The need to avoid unwarranted sentence disparities.

A sentence within the advisory guideline range would be unduly punitive here in light of the need to avoid unwarranted disparity in sentences. First, based

on the Sentencing Commission's JSIN tool, attached as Appendix A to the PSI, *excluding anyone who received a reduction for substantial assistance*, a review of the remaining persons in the last five fiscal years (2018-2022) who were sentenced with the same advisory guideline range as Ms. Stergo (51-63 months) reveals that the average sentence imposed was 41 months. Second, according to the United States Sentencing Commission's interactive data analyzer, during the last three fiscal years (2020-2022), the majority of sentences imposed (62.467%) whose primary guideline was § 2B1.1 were granted non-government downward variances in the Southern District of New York. Accordingly, a 41-month sentence in this case is consistent in comparison with sentences for similarly situated defendants.

f. The need to provide restitution.

Ms. Stergo has agreed to make restitution in the amount of \$2,830,775 over the next 30 years. She is not a high-income earner, and she will need as much time as she can get to work and pay towards the restitution amount. In addition, the victim specifically requested that, “Ms. Stergo be encouraged to return to work as soon as possible . . . even if it means a shorter sentencing.” [PSI, ¶ 37].

II. Request for Recommendation of RDAP

Considering Ms. Stergo's previous issue with drinking and the fact that she has started drinking wine to “help her sleep,” which her boyfriend expressed concern about (saying that “it appears that she has become dependent on alcohol to

help herself sleep and that she drinks at dinner as well to ‘take the edge off’”) [PSI, ¶¶ 68, 76], it is respectfully requested that this Court recommend her enrollment in the substance abuse treatment program while in BOP custody.

III. Prison Designation Request

Ms. Stergo requests that the Court recommend to the Bureau of Prisons that she be designated to Tallahassee FCI to serve her sentence, which is the most convenient facility for her family to visit.

IV. Conclusion

Given Ms. Stergo’s history and characteristics, as well as the sentences imposed under similar circumstances, the advisory guideline range in this case is unduly punitive and a sentence within that range would result in an unwarranted sentencing disparity.

Accordingly, Ms. Stergo respectfully submits that a downward variance of 41 months imprisonment followed by a period of supervised release is warranted in this case, and is necessary to fashion a sentence that would better serve the goals of 18 U.S.C. § 3553(a).

Respectfully submitted,



/s/ Ann Marie Fitz
Counsel for Peaches Stergo

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CERTIFICATE OF SERVICE

This is to certify that on July 12, 2023, undersigned counsel electronically filed the foregoing **Sentencing Memorandum** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Assistant United States Attorney Adam Sowlati.



/s/ Ann Marie Fitz
Counsel for Peaches Stergo

Ex. 1

PEACHES STERGO | F | 08/06/1986

MRN: IDX06467581

Crown Touchworks

Print Date & Time: 6/20/23, 3:05 PM EDT

Name	Encounter Date	Provider Name	Provider Specialty	Encounter Type
Office/Progress/Follow-up Note	10/01/2019	Bruce, Jeffrey	Neurosurgery	Appointment

Mrs. Stergo has been followed for several years now, since she had resection of a chondrosarcoma back in 2011 in Miami. Since then, she has done well. She has a little residual lesion that continues to be followed. She had a recent migraine this month, and went to the emergency room. This was treated medically, and she has been fine since then. She gets headaches once or twice a month, but denies any double vision. Her MRI scan shows the persistent left posterior clinoid lesion that remains unchanged. I will see her back in 1 year for a followup scan.

Jeffrey N Bruce, MD

JNB/MODL
 DD: 10/01/2019 13:49:21
 DT: 10/01/2019 14:15:27
 Job #: 856221274/856221274

Electronically signed by: Jeffrey Bruce MD Oct 8 2019 2:38PM EST



COLUMBIA
IRVING MEDICAL CENTER

Stergo, Peaches
MRN: 1103425991, DOB: 8/6/1986, Sex: F
Visit date: 9/29/2020

09/29/2020 - Office Visit in COLUMBIA NEUROSURGERY - NEUROLOGICAL INSTITUTE

Clinical Notes

Progress Notes

Jeffrey N Bruce, MD at 9/29/2020 1345

Neurosurgery Follow-Up Visit

This visit is provided by a secure Telehealth system. The patient is aware of their right to refuse to participate in services delivered via telemedicine and the alternatives and potential limitations of participating in a telemedicine visit versus a face-to-face visit; I have also informed the patient of my current location and the names of all persons participating in the telemedicine service and their role in the encounter. The patient agrees to have this service via Telehealth. The patient confirmed that at the time of this visit, they are physically located in a state in which I am licensed.

CC: presents for neurosurgery follow-up visit

HPI:

Peaches Stergo is a 34 year old female who we have been following for several years, for a residual lesion s/p craniotomy in 2011 with Dr. El Hamany for a chondrosarcoma, in Jacksonville, FL. She never had radiation.

Over last several years her persistent left posterior clinoid lesion has appeared stable and unchanged.

Overall she is feeling good. Doesn't really have any symptoms, occasionally gets migraines, but no frequent headaches any more. Recently found out she has T2DM, but she is now on metformin and its well controlled.

Assessment & Plan:

Her MRI continues to show the lesion in the left posterior clinoid. This remains unchanged. I recommended that we continue to manage this conservatively with follow-up MRI scans on a yearly basis. If there is any radiographic or symptomatic progression then surgery or other treatment would be considered. Risks benefits alternatives were discussed.

*Jeffrey Bruce, MD
Neurological Institute, Room 434
710 W 168th St.
New York, NY 10032
212-305-734*

Electronically signed by Jeffrey N Bruce, MD at 9/29/2020 2:01 PM



COLUMBIA
IRVING MEDICAL CENTER

Stergo, Peaches
MRN: 1103425991, DOB: 8/6/1986, Sex: F
Visit date: 8/10/2021

08/10/2021 - Office Visit in COLUMBIA NEUROSURGERY - NEUROLOGICAL INSTITUTE

Clinical Notes

Progress Notes

Jeffrey N Bruce, MD at 8/10/2021 1100

Neurosurgery Note
Tele-Medicine

Peaches Stergo is a right handed 35 year old female who presents today for a Neurosurgery Tele-Medicine visit via secure video-chat.

She verbally confirmed before starting the visit that she is in a secure and private space, and feels comfortable starting the video visit.

She is currently physically located in a state where I am licensed.

She has been followed for several years now having undergone a craniotomy for a chondrosarcoma of the upper clivus in 2011 by Dr. El Hamany in Jacksonville. She has never had radiation. She has a persistent left posterior clinoid lesion that has remained unchanged. She had a follow-up MRI scan last month that shows no change compared to 2020. I do not have her older scans for comparison. I told her you would be reasonable to continue with the yearly followups.

Electronically signed by Jeffrey N Bruce, MD at 8/10/2021 2:39 PM